

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KELLY MANN

PLAINTIFF

v.

CAUSE NO. 1:20CV267-LG-RPM

PELICIA HALL, et al.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATIONS
AND GRANTING DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND TO STRIKE
PLAINTIFF'S DESIGNATION OF EXPERTS**

BEFORE THE COURT is the [87] Report and Recommendation entered by United States Magistrate Judge Robert P. Myers, Jr., who recommends that the [77] Motion to Strike Plaintiff's Designation of Experts and the [78] Motion for Summary Judgment filed by Defendants should be granted. The Court granted Plaintiff's request for additional time to object to the Report and Recommendation, but he did not file an objection and the time for doing so has expired.

Where no party has objected to the Magistrate Judge's report and recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having conducted the required review, the Court finds that Judge Myers' Report and Recommendation is neither clearly erroneous nor contrary to law.

Defendants' Motion for Summary Judgment and Motion to Strike Plaintiff's Designation of Experts are granted. All the claims in Plaintiff's 42 U.S.C. § 1983 complaint are dismissed with prejudice as frivolous or for failure to state a claim. Therefore, the Court adopts Judge Myers' recommendation that Plaintiff be assessed a strike. *See Blakely v. Wards*, 738 F.3d 607, 617 (4th Cir. 2013), *as amended* (Oct. 22, 2013) ("[I]f a summary judgment dismissal explicitly deems the terminated action frivolous, malicious, or failing to state a claim, then the summary judgment dismissal counts as a strike for Section 1915(g) purposes.").

IT IS THEREFORE ORDERED AND ADJUDGED that [87] Report and Recommendation entered by United States Magistrate Judge Robert P. Myers, Jr., is **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the [77] Motion to Strike Plaintiff's Designation of Experts and the [78] Motion for Summary Judgment filed by Defendants are **GRANTED**. Plaintiff's lawsuit is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff is assessed a strike. Since Plaintiff has previously accumulated two strikes, the dismissal of Plaintiff's above-styled action is his third strike as contemplated by 28 U.S.C. § 1915(g), and he is barred from proceeding in forma pauperis in any future civil action or appeal unless he is under imminent danger of serious physical injury.

SO ORDERED AND ADJUDGED this the 12th day of September, 2023.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE